

BRIGHTON & HOVE CITY COUNCIL
LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

10.00am 10 OCTOBER 2011

COMMITTEE ROOM 1, BRIGHTON TOWN HALL

MINUTES

Present: Councillor Deane (Chair); Simson and Sykes

Officers: Jim Whitelegg, Senior Environmental Health Officer, Liz Woodley, Senior Lawyer and Caroline De Marco, Democratic Services Officer

PART ONE

68. TO APPOINT A CHAIR FOR THE MEETING

68.1 Councillor Deane was appointed Chair for the meeting.

69. PROCEDURAL BUSINESS

69a Declaration of Substitutes

69.1 There were none.

69b Declarations of Interest

69.2 There were none.

69c Exclusion of the Press and Public

69.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Panel considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

69.4 **RESOLVED** - That the press and public be not excluded from the meeting.

70. APPLICATION FOR NEW CLUB PREMISES LICENCE: POCKET ROCKET 176B CHURCH ROAD, HOVE

- 70.1 The Panel considered a report of the Head of Environmental Health and Licensing regarding a New Club certificate under the Licensing Act 2003 for Pocket Rocket Members Club, 176B Church Road, Hove.
- 70.2 The applicant, Ms Michelle Deane attended the meeting with her representative Mr Simmonds to make representations in favour of the application. Mr Minns from the Environmental Protection Team attended the hearing to make representations against the application.
- 70.3 The Licensing Officer explained that five representations had been received. One of these was a letter of support. Three of the representations related to concerns about noise escaping from the rear door. Mr Furniss was unable to attend the meeting but had asked for it to be reported that he had no issue with the activities of the business, but had been disturbed in the past by noise from the premises when the rear door was left open. Meanwhile, Mr Furniss asked for it to be pointed out that the map on page 25 of the agenda showed his property highlighted. The shading should have extended slightly to the right.
- 70.4 The Licensing Officer reported that Sussex Police had withdrawn their representation as the applicants had agreed to their suggested conditions.
- 70.5 The Licensing Officer explained how a members club operated. A certificate would permit the club to supply and sell alcohol to members and guests only. It would be a non commercially run enterprise. There would be limited entry to the club.
- 70.6 The Licensing Officer explained that there had been some history to the club. Last year it had been discovered that the premises had not been run as a bona fide club. The licence had been withdrawn in 2010. Environmental Health were currently investigating complaints. The premises had planning permission to run as a private members club.
- 70.7 It was confirmed that the application did not relate to regulated entertainment. It only related to the sale and supply of alcohol. The premises had planning permission to operate as a gymnasium. This had not been taken up. It was further confirmed that the current operation had some connection with the original committee that held certificates.
- 70.8 Mr Minns set out the representation from the Environmental Protection Team. He explained that a noise complaint had been received at the same time as the application for a club premises certificate. The complaint related to noise and smoke nuisance from the club, due to people talking and smoking outside the rear fire escape doors. He had written to the club and had written to the complainant asking them to complete diary sheets. The complainant had been away a great deal and had not returned diary sheets. Meanwhile, an officer in Environmental Health had recorded a complaint in August relating to cooking smells. Diary sheets had not been returned.
- 70.9 Mr Minns suggested a condition that a) the rear fire doors will remain closed, except for emergencies and b) that staff or club members will not congregate at the rear of the premises, (except in emergencies).
- 70.10 Mr Simmonds asked Mr Minns to confirm that the complaint had been received from a commercial premises. This was confirmed as correct.

- 70.11 Mr Simmonds set out the case for the applicants. He explained that the basement property had a long history of being club premises in various guises. Mr Simmonds informed the Panel of the layout to the club which was accessed down some narrow steps through a narrow door. It was situated between two commercial properties. The rear of the premises had double doors leading to a small lower area a metre wide. Steps led up to a more open concrete area. At the end of this area was an alleyway leading to a road. Other commercial and private properties also had rear access and use of this upper rear area, including Mr Furniss. The club stored rubbish in the area which was why there was a problem with keeping the rear doors closed.
- 70.12 Mr Simmonds stated that the club had been properly reconstituted as a members club. The purpose of the club was to meet for social activities. There was a TV and space for people to sit and play cards. There were no adult activities at any time.
- 70.13 The club were only asking for alcohol till 23.00 hours. Mr Simmonds stated that people who played cards did not like to drink alcohol. They wanted to retain alertness. However, during reasonable hours the club wanted to provide food and alcohol to members. They employed a steward and a cook and other than that the club was run by committee members.
- 70.14 There were restricted rights of entry to private members clubs. Mr Simmonds acknowledged that there had been some concern over the activities of the club. He invited any responsible authority to inspect the club at any time. The club had nothing to hide. It would be run as a proper lawful club.
- 70.15 Mr Simmonds stated that the applicants had no problems with the police conditions. Meanwhile, no-one would be allowed out the back to smoke. They would only be able to access the front entrance. The club had a narrow frontage but only a couple of people were likely to smoke outside. A notice would ask members to respect the neighbours.
- 70.16 Mr Simmonds explained that there would be no regulated entertainment at any time. The TV might be on during the day.
- 70.17 Mr Simmonds acknowledged that the rear doors were a bone of contention. He believed the Environmental Protection Team's conditions were too tight. He explained that there was a gas supply at the back of the property. It would be necessary for the door to be open when the gas supply was being serviced or refuse was being taken out. The planning condition related to a gym.
- 70.18 Mr Simmonds proposed an amended condition to read "During reasonable hours (09.00 to 19.00 hours) staff or other members may be able to open the rear doors if they need to go out to dispose of rubbish, deal with services, or receive a supply." Mr Simmonds believed if that could be agreed it would still achieve the aim of the Environmental Protection Team but also allow access to the area for reasonable servicing.
- 70.19 Mr Simmonds stressed that the applicants were responsible. He stated that a representation of support had been received, and that no complaints that had been justified had been brought forward.

- 70.20 Councillor Sykes asked what went wrong previously and how it could be prevented from happening again. Mr Simmonds explained that the club was now run by different people. The previous club had been run as if it was a premises licence. The previous people did not know the legislation. It was now a properly run club.
- 70.21 Councillor Sykes referred to Mr Simmonds' request to amend the Environmental Protection Team's suggested condition. He asked why members would want to use the rear door. Mr Simmonds replied that there was only one part time employee, and members would need access to the rear to deal with servicing and disposal of rubbish.
- 70.22 Councillor Sykes asked if Mr Simmonds if he was aware of the problem of counterfeit alcohol in the city. Mr Simmonds replied that he was aware of the problem.
- 70.23 Councillor Simson asked Mr Simmonds if he would be prepared to have a further condition stating that the rear doors should be closed at all times, except when they needed to be opened. Mr Simmonds replied that he would be accept such a condition.
- 70.24 Councillor Simson asked if any committee members had been approached by Mr Furniss. Mr Simmonds replied that Mr Furniss had been quite vocal and had approached several members. Meanwhile, Ms Deane, the Club Secretary had written to the estate agent as he had behaved inappropriately towards a lady employed as a cook. The club tried to work with its neighbours.
- 70.25 Councillor Deane asked about the size of the club. Mr Simmonds replied that the membership was just over 100. The capacity of the club was 100 at the absolute maximum but could only comfortably take 60 persons. 50-60 persons was the maximum on a regular basis.
- 70.26 Councillor Deane asked if the club had a new constitution. Mr Simmonds confirmed that a new constitution had been submitted with the application.
- 70.27 Mr Minns asked if Mr Simmonds would agree to deliveries being restricted to 09.00 to 19.00 hours. Mr Simmonds confirmed that he would have no objection to this condition.
- 70.28 The Licensing Officer gave his closing observations. Each application should be considered on its own merits. Conditions had been suggested should the Panel grant the application. Any conditions should be clear, precise, workable and enforceable.
- 70.29 Mr Simmonds gave his closing observations. He informed the Panel that he believed that a valid application had been submitted.
- 70.30 **RESOLVED** - The Panel has read all the representations and listened carefully to all the arguments put forward.

The Panel are minded to grant a club certificate to the applicant to sell and supply alcohol, subject to the conditions consistent with the operating schedule and those proposed by the police and agreed by the applicant and the following conditions imposed as a result of the hearing:- From 9.00am to 7.00pm the rear doors are to be kept closed, other than for access and egress. Deliveries are to be kept within these

same hours, and none on Sundays. From 7pm to 9am the doors are to be kept closed at all times, and only to be used as an emergency exit.

The Panel believe that these additional conditions should be imposed so as to support the police in enabling the club to comply with the council's licensing objectives.

The Panel solicitor reminded the parties of their appeal rights to the Magistrates Court under the Licensing Act and that appeals must be made within 21 days of written notification of the decision given at the hearing.

The meeting concluded at 11.03am

Signed

Chair

Dated this

day of